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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,

10 Plaintiff,

11 v.

12 Jose Alvarado-Ibanez,

13 Defendant.
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NO. CR-19-00920-001-PHX-SMB

**SUPERVISED RELEASE
VIOLATION: CR-15-0180-PHX-SMB**

**FINDINGS AND
RECOMMENDATION OF THE
MAGISTRATE JUDGE UPON A
PLEA OF GUILTY AND
ADMISSION**

16 **TO THE HONORABLE SUSAN M. BRNOVICH, U.S. DISTRICT JUDGE:**

17 Upon Defendant's request to enter a plea of guilty pursuant to Rule 11,
18 Fed.R.Crim.P. and admit to a supervised release violation pursuant to Rule 32.1,
19 FED.R.CRIM.P., this matter came on for hearing before U.S. Magistrate Judge James F.
20 Metcalf on August 6, 2019, with the written consents of Defendant, counsel for
21 Defendant, and counsel for United States of America and an Order of Referral from the
22 assigned District Judge.

23 In consideration of foregoing hearing and the statements made by the Defendant
24 under oath on the record and in the presence of counsel, and the remarks of the Assistant
25 United States Attorney and of counsel for Defendant,

26 (A) I **FIND** as follows that:

27 (1) Defendant understands the nature of the charge and supervised release
28 violation against him/her to which the plea is offered and the nature of the offense

1 and violation to which he/she is pleading guilty and admitting;

2 (2) Defendant understands his/her right to trial by jury and to a revocation
3 hearing, to persist in his/her plea(s) of not guilty and denials and to the assistance
4 of counsel at trial and revocation hearing, to confront and cross-examine adverse
5 witnesses, and his/her right against compelled self-incrimination;

6 (3) Defendant understands what the maximum possible sentence is and the
7 maximum disposition for the supervised release violation; Defendant also
8 understands that the sentencing and disposition guidelines are advisory only and
9 that the sentencing District Judge may depart from those guidelines under some
10 circumstances;

11 (4) Defendant's plea of guilty and admission to violating his/her supervised
12 release have been knowingly, intelligently and voluntarily made and are not the
13 result of force or threats or of promises apart from the plea agreement between the
14 parties;

15 (5) Defendant is competent to plead guilty and admit to a supervised release
16 violation;

17 (6) Defendant understands that his/her answers may later be used against
18 him/her in a prosecution for perjury or false statement;

19 (7) Defendant understands that by pleading guilty he/she waives the right to
20 a jury trial and by admitting to violation of his supervised release he waives the
21 right to a revocation hearing;

22 (8) Defendant understands the terms of the plea agreement provision
23 waiving the right to appeal, to collaterally attack the sentence and disposition of
24 his/her supervised release violation and has knowingly, intentionally and
25 voluntarily waived those rights;

26 (9) Defendant is satisfied with counsel's representation; and

27 (10) there is a factual basis for Defendant's plea and admission; and further,

28 (B) **I RECOMMEND** that the Defendant's plea of guilty to the Information and

1 admission be accepted subject to the Court's acceptance of the plea agreement which
2 shall remain lodged with the Court pending the District Judge's decision whether to
3 accept or reject the plea agreement after review of the presentence report.

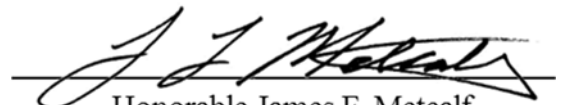
4 **ORDER**

5 **IT IS ORDERED** that any objection to the guilty plea or admission proceedings
6 and any request(s) for supplementation of those proceedings be made by the parties in
7 writing and shall be specific as to the objection(s) or request(s) made. All objections or
8 requests for supplementation shall be filed within fourteen (14) days of the date of service
9 of a copy of these findings unless extended by an order of the assigned District Judge.

10 **IT IS FURTHER ORDERED** that all character letters defendant or his attorney
11 would like the sentencing judge to read and consider before pronouncing sentence
12 (including the translation of any documents from Spanish to English) must be submitted
13 in paper form with the original to the probation office and copies to the sentencing judge
14 and opposing counsel no later than seven (7) business days prior to the sentencing date or
15 they may be deemed untimely by the sentencing judge and not considered by him/her.
16 (ECM Manuel, II § N at 19)

17 **IT IS FURTHER ORDERED** that any motions for upward departure, downward
18 departure and sentencing memoranda must be filed, at least, seven (7) business days prior
19 to the sentencing date. Responses are due, at least, three (3) business days prior to the
20 sentencing date. Any motion to continue sentencing shall be filed, at least, three (3)
21 business days prior to the sentencing date. Any motion to continue sentencing must be
22 filed promptly upon discovery of the cause for continuance and must state the cause with
23 specificity. Motions to continue sentencing filed less than fourteen (14) days before
24 sentencing are disfavored. If either party intends to call a speaker at sentencing, other
25 than the Defendant, counsel must notify the Courtroom Deputy at least 3 business days in
26 advance.

27 Dated: August 6, 2019.

28 
Honorable James F. Metcalf
United States Magistrate Judge